THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY

W.P.No.22465 of 1995

Dt.12-12-2006

Between:
A.Viswanadham and others

..Petitioners

and

1. Superintending Engineer, Vamsadhara Project Circle, Srikakulam.

..Respondents.

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Oral Order:

The 1st petitioner was appointed as work charged Head-Mazdoor on 22-03-1978 and continued as such till 31-05-1978 and appointed as NMR Head Mazdoor with effect from 01-06-1978 and continued upto 30-04-1979. The 2nd petitioner was appointed as work charged work Inspector and Head Mazdoor on 03-03-1976 and continued till 30-04-1978. The 3rd petitioner was appointed as work charged Mazdoor on 17-02-1976 for about a period of three months and later he was appointed as NMR Manmazdoor and he worked till 31-03-1977. The 4th petitioner was appointed as work charged Manmazdoor on 16-06-1976 and worked as such for three months. Thereafter, he was appointed as NMR Manmazdoor and worked till 31-07-1977. The 5th petitioner was appointed as NMR Manmazdoor in March, 1974 and worked as such till the end of 1976 and they were not engaged thereafter. Therefore, they raised an industrial dispsute-I.D.No.189 of 1993 for reinstatement. Simultaneously they filed the present writ petition for reappointment contending that their services were discontinued as the funds were not available and as and when funds were available their cases may be considered for reappointment and accordingly one similarly situated employee of the said project i.e. Linga Murthy who worked along with the petitioners during the years 1976 to 1978 filed W.P.No.9256 of 1989 for a direction to re-employ him which was disposed of and the

said Linga Murthy was re-employed in the said project. Pursuant to the said direction, petitioners filed the present writ petition to reemploy them into the posts, which they held earlier or to any other suitable posts.

The Executive Engineer, V.D.P. Division filed a counter stating that the petitioners never worked for 180 days in any period of 12 calendar months as such, they are not entitled to the benefits under the Industrial Disputes Act and the I.D. filed by them is pending before the Labour Court and now new candidates were recruited. Government in G.O.Ms.No.143 dated 16-03-1984 issued orders to regularise the NMRs. who have put in service of more than five years and accordingly the 1st respondent has regularised the services of NMRs who have put in service of more than five years and in fact there is no fresh recruitment after that date as pleaded by the petitioners. The Government in Memo No.26040/Estt.I/93-8 issued orders reiterating that reinstatement of retrenched staff with pay amounts to fresh appointment and the same is strictly prohibited under Act 2/94. It is denied that no such Linga Murthy has been re-employed as alleged by the petitioners and when I.D. is pending they cannot file the present writ petition.

Admittedly, petitioners' services were dispensed with as early as in the year 1978-79 and the present writ petition is filed after a lapse of nearly 17 years taking inspiration from the order said to have been passed in the case of Linga Murthy which fact has been denied by the respondents and the same has not been controverted by filing any reply.

In view of the same, writ petition suffers from laches and cannot be entertained. The writ petition is accordingly dismissed. It is open for the petitioners to work out their remedies in I.D.No.189 of

1993 pending before the Labour Court. No costs.

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A.GOPAL REDDY, J.

12-12-2006

Murthy